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EXAMINER

SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/30/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/264,762

Applicant(s)

JURMAIN, RICHARD N.

Examiner

John L Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-30 and 32-42 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 14, 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. In view of the appeal brief filed on July 11, 2003, PROSECUTION IS HEREBY REOPENED. For the reasons in the office action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Accordingly, claim 31 is cancelled and claims 1-30 and 32-42 are pending. The Examiner regrets the extension of prosecution in this case.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,4 are rejected under 35 U.S.C. 102(b) as being anticipated by Bonnett (US 4,138,722).

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Regarding claim 1, Bonnett discloses a device comprising an enclosure (Fig 1, 36) with an integral electronic circuit (Fig 2, 14), an actuator connected to the electronic circuit (Col 2, lines 56-61), and a pushbutton switch responsive to the simulation of an addictive activity by the user (Col 3, lines 1-5).

Regarding claim 2, Bonnett discloses an alphanumeric display (Fig 1, 19) connected to the electronic circuit and mounted in the simulator case (Fig 1, 18), observable by the user of the device, and responsive to actuations of the pushbutton switch (Col 2, lines 38-48).

Regarding claim 4, Bonnett discloses a breathing tube (Fig 1, 42) with an integral switch that serves as a one-way bellows type switch (Col 2, lines 56-61) as the user breathes into the tube (Col 3, lines 1-7).

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 22-24 and are rejected under 35 U.S.C. 102 (a) as being anticipated by Schneier et al (US 5,871,398).

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Regarding claim 22, Schneier et al discloses a handheld gaming device with a case (Fig 1, 20), power source, programmable electronic circuit (Col 6, lines 53-67), programmable sound synthesizer (Col 13, lines 45-48), and communications port for communicating directly with other handheld gaming devices or networked devices and exchanging programmed information (Col 22, lines 43-60 and Fig. 12).

Regarding claim 23, Schneier et al discloses a handheld gaming device with an integral visual display (Fig 1, 84) connected to the integral electronic circuit and used for issuing visual prompts to the user (Fig. 1, 92).

Regarding claim 24, Schneier et al discloses a handheld gaming device with a microphone integrally connected to the internal electronic circuit to detect sounds produced by the user (Fig. 4, 112).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3,6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Schneier et al (US 5,871,398).

Regarding claim 3, Bonnett discloses a handheld simulator device, but does not disclose that the handheld device has an integral slot that may be used for the insertion and detection of

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payment means. Schneier et al teaches a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35). The insertion of the payment means is in response to prompts from the handheld device when purchasing games (Col 14, lines 55-60). The smart card is a PCMCIA adapted device and is a common and well-understood means for transferring information into handheld devices, including payment means. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator device as disclosed by Bonnett with an integral PCMCIA slot for the insertion and detection of payment means by the handheld device as taught by Schneier et al for the purposes of collecting funds for services as they are provided.

Regarding claim 6, Bonnett discloses a switch that is responsive to user actions in using the device, however, Bonnett does not disclose a microphone in the handheld device. Schneier et al teaches a microphone that may be used to detect sounds from the user in response to user requests (Col 14, line 19 and Fig. 5). Each method is utilized as a means for responding to user actions when using the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a handheld simulator device as disclosed by Bonnett with a microphone integral to the device to respond to user requests as taught by Schneier et al for the purposes of allowing vocal communication with the device for the verification of results.

Regarding claims 8-10, Bonnett discloses a switch that is responsive to user actions in using the device, however, Bonnett does not disclose a speech recognition circuit in the handheld device. Schneier et al teaches a voice activated sound recognition circuit that may be used to

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detect sounds from the user in response to user requests (Col 14, line 22 and Fig. 12). Each method is utilized as a means for responding to user actions when using the device. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator device as disclosed by Bonnett with a speech recognition circuit integral to the device capable of recognizing sounds to respond to user actions as taught by Schneier et al for the purposes of responding to a plurality of spoken requests for information.

7. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown (US 5,913,310).

Regarding claim 7, Bonnett does not specifically disclose a handheld simulator device responsive to the simulation of an addictive activity of the user with a speaker issuing audible indications to a user of the simulator. However, Brown (310) teaches a handheld device with a speaker and control circuitry for the dissemination of music synthesized speech and other sounds generated by a sound generator coupled to the speaker (Col 11, lines 54-59). Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator device responsive to the simulation of an addictive activity of the user as disclosed by Bonnett with a speaker and control circuitry for the dissemination of music synthesized speech and other sounds generated by a sound generator coupled to the speaker to issue audible indications to a user of the device as taught by Brown (310) for the purposes of providing instruction and other spoken message to a user of the device.

Regarding claim 11, Bonnett discloses a handheld device used to measure user interaction and provide this information to the user (Col 1, lines 55-61). Bonnett does not specifically disclose that this interaction with the user is through speech. However, Brown (310)

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teaches a handheld device with a speaker and control circuitry for the dissemination of music synthesized speech and other sounds generated by a sound generator coupled to the speaker (Col 11, lines 54-59). Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld device used to measure user interaction and provide this information to the user as disclosed by Bonnett with a speech synthesizer electrically connected to the circuit in the handheld device as taught by Brown (310) for the purposes of providing informational messages to the user in a timely manner.

8. Claim 12-21,33,34 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown (US 5,918,603) in further view of Schneier et al.

Regarding claim 12, Bonnett discloses a handheld simulator with a case and an electronic circuit housed within the case. Bonnett does not specifically disclose that a speaker is connected to the electronic circuit. Brown (603) teaches a hand held simulator with a speaker attached to the electronic circuit to provide sounds to direct the user to perform actions (Col 4, lines 5-7). Schneier et al teaches that a handheld device interacts with a user through spoken conversations (Col 14, lines 55-60) wherein the handheld device reads results to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a handheld simulator with a case and an electronic circuit housed within the case as disclosed by Bonnett with a speaker to produce sounds and instructions consistent with the inhibition of smoking behavior as taught by Brown (603) where the sounds are spoken conversations as taught by Schneier et al for the purposes of inhibiting smoking behavior.

Regarding claim 13, Bonnett discloses a handheld simulator with a case and an electronic circuit housed within the case. Bonnett does not specifically disclose that a sensor is connected

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to the electronic circuit. Brown (603) teaches that the simulator may be equipped with a monitoring sensor, used to monitor user response (Col 3, lines 14-22). Both the simulator disclosed by Bonnett and the simulator taught by Brown present an embodiment of the simulator used to treat medical conditions, including inhibiting smoking behavior. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator with a case and an electronic circuit housed within the case as disclosed by Bonnett with a means to monitor the effectiveness of treatment by providing a sensor to monitor user responses to treatment that includes sounds emitted from the integral speaker as taught by Brown (603) for the purposes of monitoring a user's behavior.

Regarding claim 14, Bonnett discloses a handheld simulator with an input device for gathering user input. Brown (603) teaches that the input device may be a sensor used to gather user input (Col 3, lines 14-22). Schneier et al teaches that the sensor may comprise a microphone used to detect sound made by the user (Col 13, lines 45-48). Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator with a case and an electronic circuit housed within the case as disclosed by Bonnett with a sensor used to detect input from the user as taught by Brown (603) where the sensor detects sounds made by the user as taught by Schneier et al for the purposes of accepting spoken commands from the user.

Regarding claim 15, Bonnett discloses a portable simulator with an integral recess in the case adapted to secure an accessory used in association with the simulator (Fig. 1).

Regarding claim 16, Bonnett discloses a portable simulator with an integral sensor accessory that produces a signal when activated that is subsequently processed by the electronic circuit of the simulator. Bonnett does not disclose that this sensor may be a hypodermic style

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sensor. However, Brown (603) teaches a handheld simulator that has a plurality of sensor devices that may be attached for measuring physical parameter, for example, blood glucose levels for a diabetic (Col 3, lines 14-19). It is a common and well-known practice for diabetics to utilize a hypodermic as the introduction method for insulin. Therefore, it would have been obvious to one of ordinary skill in the art to provide a portable simulator with an integral sensor accessory that produces a signal when activated as disclosed by Bonnett and to style a monitoring sensor as a hypodermic simulation device with a signal that is processed by the electronic circuit when the sensor is activated as taught by Brown (603) for the purposes of conveniently collecting data from the user's physical activity.

Regarding claim 17, Bonnett discloses a handheld simulator with an orifice formed within the case. Bonnett does not disclose nor does Brown (603) teach that the handheld device has an integral slot that may be used for the insertion and detection of payment means. Schneier et al teaches a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35). The insertion of the payment means is in response to prompts from the handheld device when purchasing games (Col 14, lines 55-60). The smart card is a PCMCIA adapted device and is a common and well-understood means for transferring information into handheld devices, including payment means. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator with an orifice formed within the case as disclosed by Bonnett with an integral PCMCIA slot for the insertion and detection of payment means by the

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handheld device as taught by Schneier et al for the purposes of collecting payment for services at the time of delivery.

Regarding claims 18 and 33, Bonnett discloses a handheld simulator with an electronic circuit. Bonnett does not disclose nor does Brown (603) teach a speech synthesizer within the unit. Schneier et al teaches a handheld device with a speech synthesizer connected to a speaker for communicating messages to the user (Col 13, lines 38-47). Both devices require a method of informing the user as to outcomes of user interaction with the device. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator with an electronic circuit as disclosed by Bonnett with a speech synthesizer electrically connected to the circuit in the handheld device as taught by Schneier et al for the purposes of providing informational messages to the user.

Regarding claim 19, Bonnett discloses a portable simulator with a visual display connected to the electronic circuit and used for issuing messages to the user (Fig. 1).

Regarding claims 20 and 21, Bonnett discloses a portable simulator with an orifice in the case and an integral breathing apparatus permitting the introduction of outside air into the case and allowing the user to exhale into the interior region of the case (Col 2, lines 63-68).

Regarding claim 34, Bonnett discloses a switch that is responsive to user actions in using the device, however, Bonnett does not disclose nor does Brown (603) teach a microphone or a speech recognition circuit in the handheld device. Schneier et al teaches a microphone with a voice activated sound recognition circuit that may be used to detect sounds from the user in response to user requests (Col 14, line 22 and Fig. 5). Each method is utilized as a means for responding to user actions when using the device. Therefore, it would have been obvious to one

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of ordinary skill in the art to provide a switch that is responsive to user actions in using the device as disclosed by Bonnett with a speech recognition circuit integral to the device capable of recognizing sounds to respond to user actions as taught by Schneier et al for the purposes of responding to user actions over a network connection.

Regarding claim 37, Bonnett does not disclose nor does Brown (603) teach a voice recognition circuit capable of discerning sounds or the volume of those sounds. However, Schneier et al teaches that to assist the handheld simulator in responding to user requests an integral speech recognition circuit is necessary for the reading of results from the handheld device to the user (Col 14, lines 55-60). It is a common and well-known practice to program a speech recognition circuit for a plurality of sounds, such as spoken words, coughs, and sneezing in order to discern activation sound patterns that are not speech. A speech recognition circuit is, therefore, programmed to recognize a number of bodily and ambient sounds and to provide functionality based upon the sound captured and recognized. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator as disclosed by Bonnett programmed with speech recognition software with the profiles, and volume parameters, for a plurality of bodily sounds such as coughs and sneezing, as well as ambient sounds such as the striking of a match as taught by Schneier et al for the purposes of recognizing and filtering out sounds that are to be used by the device to deter addictive habit behavior of the user.

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier et al in view of Bonnett.

Regarding claim 25, Schneier et al discloses a handheld gambling simulation device that may be used for entertainment of the user (Col 4, lines 47-64). Schneier et al does not disclose

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that the portable entertainment device has a bore passing through the surface of the case, a tube connected to the bore, a vent perforation allowing the passage of exhaled air, and a flow restrictor to restrict direction and volume of the air passing into the case. However, Bonnett teaches a handheld device with a bore passing through the surface of the case, a tube connected to the bore, a vent perforation allowing the passage of exhaled air, and a flow restrictor to restrict direction and volume of the air passing into the case (Fig. 1, and Col 2, lines 63-68). It is of psychological help and entertaining to the user to watch the display as the number of inhalations changes on a unit basis. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld entertainment device as disclosed by Schneier et al with a bore passing through the surface of the case, a tube connected to the bore, a vent perforation allowing the passage of exhaled air, and a flow restrictor to restrict direction and volume of the air passing into the case as taught by Bonnett for the purposes of entertaining a user as they progress in their attempts to cease smoking behavior.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier et al in view of Brown (310).

Regarding claim 26, Schneier et al discloses a handheld entertainment device with a memory circuit integral to the device (Col 14, lines 55-60). Schneier et al does not specifically disclose that the memory contains a plurality of messages which are used as prompts and taunts delivered to a user of the device. However, Brown teaches a random access memory that is used to download sounds such as music and synthesized speech to the users of the device (Col 11, lines 54-59). The random access memory stores all important speech patterns for use in the device including such sound files as taunts and prompts. Therefore, it would have been obvious

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to one of ordinary skill in the art to provide a handheld entertainment device with a memory circuit integral to the device as disclosed by Schneier et al in which the memory stores sounds such as music and synthesized speech to the users of the device such as prompts and taunts as taught by Brown for the purposes of helping a user with a program to stop addictive behavior.

11. Claims 27-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier et al in view of Brown (310) in further view of Hillsman (US 4,984,158).

Regarding claims 27 and 28, Schneier et al does not specifically disclose that spoken messages relating to cigarette consumption (claim 27) or life expectancy (claim 28) are provided to the user from the device. However, Brown teaches a random access memory with stored sound files for providing music, synthesized speech and other sounds to the user (Col 11, lines 54-59). Brown (310) does not specifically teach that the auditory messages provided to the user are designed to inform the user as to the consumption and life expectancy of the user. However, Hillsman teaches that a portable device to assist a user in performing a simulation of smoking may include a speaker with auditory messages designed to inform the user as to the desired performance expected and consequences if not met (Col 2, lines 52-53). These desired performance messages may contain messages concerning cigarette consumption, life expectancy, and others to acquaint the user with physiological information of concern to the user. Therefore, it would have been obvious to one of ordinary skill in the art to provide a portable entertainment device as disclosed by Schneier et al with stored message files to be provided to the user as taught by Brown (310) and that these messages provide instruction to the user as taught by Hillsman for the purposes of presenting an auditory tutorial on the use of the device in a smoking cessation program.

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Regarding claim 30, Schneier et al discloses a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35). The insertion of the payment means is in response to prompts from the handheld device when purchasing games (Col 14, lines 55-60). The smart card is a PCMCIA adapted device and is a common and well-understood means for transferring information into handheld devices, including payment means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an integral PCMCIA slot for the insertion and detection of payment means by the handheld device for the purposes of providing a more robust simulation for the user.

12. Claims 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier et al in view of Brown (603) in further view of Hillsman in further view of Bonnett.

Regarding claim 29, Schneier et al discloses a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35) in the same manner in which addictive substances are consumed by those engaging in addictive behavior such as addictive gambling behavior. Bonnett teaches a handheld device operational to assist in stopping addictive smoking behavior. Schneier et al does not disclose nor does Bonnett or Hillsman specifically teach a handheld simulator that is used for other addictive behaviors besides smoking. However, Brown (603) teaches a handheld simulator used to treat a plurality of addictive behaviors, with each pattern implemented in software and selectable by the user (Col 3, lines 1-11 and Col 5, lines 38-

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44). Brown (603) also teaches that treatment of addictive behaviors through the use of software games and simulations has been shown effective (Col 2, lines 52-67). Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld device used as a gaming simulator as disclosed by Schneier et al to assist in stopping addictive smoking behavior as taught by Bonnett that may also be used to treat a plurality of addictive behaviors with each pattern implemented in software and selectable by the user as taught by Brown (603) for the purposes of utilizing one system to reach a plurality of patients who require assistance with stopping the patterns of addictive behavior.

Regarding claim 32, Schneier et al discloses a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35) in the same manner in which addictive substances are consumed by those engaging in addictive behavior such as addictive gambling behavior. Schneier et al does not disclose nor does Bonnett or Hillsman teach that the memory of the handheld simulator contains any addictive behavior other than ingestion of the product. However, Brown (603) teaches that a treatment simulator will contain a plurality of addictive behaviors in memory for use when required to assist a patient (Col 5, lines 35-50). A common and well-known behavior of the users of known addictive products is the borrowing of a product by a user who has depleted their own supply. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld device used as a gaming simulator as disclosed by Schneier et al with memory files containing the behavior pattern of borrowing of a product by a

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user who has depleted their own supply as taught by Brown (603) for the purposes of assisting users to stop the patterns of behavior that support the addictive behavior.

13. Claims 35-36 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnett in view of Brown (603) in further view of Schneier et al in further view of Knight et al (US 5,676,551).

Regarding claims 35-36, Bonnett does not specifically disclose nor does Schneier et al teach that personality traits are available in software instructions for treating users of the handheld simulator. However, Brown (603) teaches that a plurality of psychological strategies may be implemented in software for the treatment of users of the system (Col 5, lines 35-57). Knight et al teaches that computer based simulators may be used to imbue characters with emotional characteristics preferably through audio simulation (Col 3, lines 55-67 and Col 4, lines 5-14). Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator for the treatment of addictive behavior as disclosed by Bonnett with a simulation of a personality type, including a celebrity personality as taught by Knight et al, as a psychological strategy to assist in the treatment of addictive behavior as taught by Brown (603) for the purposes of producing a simulator with a greater empathetic interface toward the user and, therefore, a more effective means of correcting addictive behavior.

Regarding claims 38-40, Bonnett does not disclose nor do Brown (603) or Knight et al teach a voice recognition circuit capable of discerning sounds or the volume of those sounds. However, Schneier et al teaches that to assist the handheld simulator in responding to user requests an integral speech recognition circuit is necessary (Col 14, lines 55-60). It is a common and well-known practice to program a speech recognition circuit for a plurality of sounds, such

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as spoken words, coughs, and sneezing in order to discern activation sound patterns that are not speech. A speech recognition circuit could, therefore, be programmed to recognize a number of bodily and ambient sounds and to provide functionality based upon the sound captured and recognized. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator as disclosed by Bonnett with a programmed speech recognition software package for recognizing speech as taught by Schneier et al with the profiles, and volume parameters, for a plurality of bodily sounds such as coughs and sneezing, as well as ambient sounds such as the striking of a match for the purposes of detecting and storing those sounds associated with speech and addictive behavior only.

Regarding claim 41, Bonnett discloses a video display that reports the users progress visually to the user, however, Bonnett does not disclose a recording function that is reportable to persons other than the user. However, Brown (603) teaches that a handheld simulator may have a communication line over which the simulator can be monitored and can report the user's usage information to persons at another location (Col 6, lines 33-40). This capability allows improved monitoring of the users condition and compliance when using the handheld device. Therefore, it would have been obvious to one of ordinary skill in the art to provide a handheld simulator with a video display that reports the users progress visually to the user as disclosed by Bonnett with a communication line over which the simulator is monitored and over which usage information is transferred as taught by Brown (603) for the purposes of extending the reporting function across a communication line to report usage information to an individual who may assist the user in their quest to stop an addictive behavior.

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Regarding claim 42, Bonnett discloses a handheld simulator device, but does not disclose nor does Brown (603) teach that the handheld device has an integral slot that may be used for the insertion and detection of payment means. Schneier et al teaches a handheld device used as a gaming simulator that has an integral slot into which payment means, in the form of a smart card containing credits, may be inserted and sensed by the device for the purchase of a product to be consumed by the user (Figure 4 and Col 12, lines 32-35). The insertion of the payment means is in response to prompts from the handheld device when purchasing games (Col 14, lines 55-60). The smart card is a PCMCIA adapted device and is a common and well-understood means for transferring information into handheld devices, including payment means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a handheld simulator device as taught by Bonnett with an integral PCMCIA slot for the insertion and detection of payment means by the handheld device as taught by Schneier et al for the purposes of providing a user with a true cost of addictive behavior while engaging in such behavior.

Allowable Subject Matter

14. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest a handheld simulator with a pressure sensor electronically interconnected to an electronic circuit and fluidly interconnected to

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a breathing tube such that the relative inhalation magnitudes can be sensed by the electronic circuit (claim 5).

Response to Arguments

Applicant's arguments filed October 7, 2002 have been fully considered but they are not persuasive. Applicant presents the argument that the cited references do not teach or suggest a pushbutton switch responsive to an activity of a user which simulates participation in an addictive activity. However, Bonnett teaches a pressure sensitive switch that is responsive to an activity of a user which simulates participation in an addictive activity. When a user draws upon the portion of the device that contains the pressure sensitive switch, the switch acts as a pushbutton by presenting one of two states - an on-state and an off-state – just like a pushbutton switch. In addition, if a hollow tube is placed in contact with the pressure sensitive switch, an obvious replacement for assisting a person to stop an addictive activity such as smoking, the user is simulating the addictive activity without active participation.

Applicant presents the argument that the prior art cited does not present a voice synthesizer for issuing spoken prompts. However, Schneier et al presents an entertainment device with a dynamic interactive voice capability (Col 22, lines 25-26) that includes the capability of reading entertainment results to a user over a communications line, such as a telephone line (Col 14, lines 55-60). The capability of producing vocal prompts and results across a communication line in response to a request for information requires that a voice

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synthesizer and software control be an inherent part of any such system. Therefore, Schneier et al does teach a voice synthesizer for issuing spoken prompts.

Applicant also presents the argument that the prior art cited does not teach that spoken prompts are provided with a particular personality. However, this argument is treated in the rejection of claims 35 and 36 above.

Finally, applicant argues that the prior art cited does not teach a communications port for communicating with other like devices and exchanging programmed information between the devices. This argument is treated in the expanded rejection to claims 22-24 above.

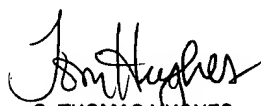
Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls
October 2, 2003


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700